

Butte-Silver Bow Local Government Study Commission

Minutes of the Meeting

May 23, 2005

Butte-Silver Bow Courthouse, First Floor Conference Room

**Meeting Date:** May 23, 2005

**Time:** 12:30 p.m.

**Place:** Butte-Silver Bow County Courthouse, First Floor Conference Room

**Call to Order:** Chairman Bob Worley brought the meeting to order at 12:30 p.m. and called roll with the following results:

**Members Present:** Meg Sharp, Northey Tretheway, and Ristene Hall

Bob Worley started discussing the state law and its requirement for the county having a Superintendent for the schools. Ken Weaver stated that in the Constitutional Article 11, Section 1, there is reference to the elected officers of the county government. Included among those, is the County Superintendent of Schools, not to be confused with the Professional School Superintendent that most school districts have. However, also in the law is the specific authority for the county to quote or consolidate any of the offices listed except the judicial officers. Ken Weaver stated that what happened is 15 to 20 counties had in fact consolidated the Superintendent of schools, maybe especially, in those counties that have either no rural school districts or have a rural school district that does not require an awful lot of administrative oversight. As a matter of fact, the principal and the superintendent do have a modest role in processing the budgets of the schools prior to approval by the board of County Commissioners with the tax levy. They occasionally have a role to play in the grievance process. A grievance against a principal for example, usually by a teacher, involves the County Superintendent of Schools, while given those limited responsibilities, a number of counties have chosen to consolidate, pursuant to the authority to do that, for county government. It is in Section 7-4-2301 in the Annotated Montana Code. Ken gave a few examples, and stated that the Treasurer or the Clerk and Recorder are most often consolidated.

Northey Tretheway asked that the Treasurer and the Clerk and Recorder's duties were to whom? Ken replied the offices with which the County Superintendent of Schools is most often consolidated. Northey asked, the Treasurer? Ken replied with the Treasurer but most often with the Clerk and Recorder. Ken mentioned, for example, the Superintendent of Schools of Great Falls is consolidated with the Clerk and Recorder's Office. There are 50 to 20 counties that are doing this. They are comparing the names with the School Superintendents' name and with the names, of either the Treasurer or the Clerk and Recorder. There are 15, maybe more. Bob Worley commented that he would like to have examples of two or three of those that might be in the Western part of Montana and then he could contact those. Ken Weaver will fax the examples.

Ken mentioned another example in Cascade County, the School Superintendent had been consolidated in this case with the Treasurer. Ken stated that his point, with respect to the

consolidated office, is that first it is politically sensitive for reasons that are obvious. It is a well-paid government job that somebody holds and that person is not going to be pleased. On the efficiency side of the question, he thinks it is a legitimate question for the Study Commission to ask. The question was, can those duties performed by the County Superintendent of Schools be as efficiently performed, at a less cost, by consolidating it with some other county office? In Section 7-4-2301, the language is fairly important there if you want to go in this direction. Ken mentioned to notice all of the offices named in 2203 and then that will provide a reference over there and does not include the judicial offices, the Attorney, District Court, County Clerk and so forth. Bob asked if that is also 7-4 and Ken replied yes. 7-4-2203 is fit with the county officers and eventually what 2301 states, except provided in Subsection 2, which states the Justice of Peace may not be consolidated or consolidated with any other offices, other than another Justice of The Peace Office. Ken stated that any of those offices could be consolidated. The one that is most often consolidated in this state with some other office is the Superintendent of Schools and the surveyor. In most counties, the surveyor is the Road Supervisor. Meg Sharp asked about the auditor. Ken Weaver replied that the auditor is limited only to a certain class of counties and would have to take a closer look at that. Ken stated that Butte probably has an auditor. Ken stated that it could be consolidated. The fourth class has populations in excess of 15,000. Ken Weaver stated there would need to be a good tax base to qualify. Ken commented that it should be understood that counties are classified by their taxable evaluation not population. Cities are based on population. Ken Weaver stated that Butte does have an auditor and it can be consolidated with some other position pursuant to citation 7-4-2301. Bob Worley asked whom do they most often consolidate the auditor with? Ken Weaver replied a consideration of internal control makes that a question he is a little reluctant to answer. He would like to do some more research. Ken Weaver replied that he only knows one county where it actually bid to consolidate. Ken Weaver checked Cascade and found that the auditor in Cascade had been consolidated with the Clerk and Recorder. Ken mentioned that even if there is a little bit of an internal control issue on payment of claims, there might be a procedural issue there that is complicated. Ken mentioned that the Study Commission would not want to do it with the Treasurer. Ken commented that if they get to a point where they are actually going to seriously propose the consolidation of the Auditor's Office, he would be pleased to put the Study Commission in touch with the people who can speak to them about it and who do not have a vested interest in the outcome.

Bob Worley gave Ken an update of the February survey and what they have done. Question 1- Should BSB continue to elect a Chief Executive or should the Council of Commissioners appoint a City Manager or no opinion. Bob asked Ken if that question was all right the way it is. Ken replied yes. Ken stated that it certainly, in terms of its appropriateness for the Study Commission to ask, is within the scope of responsibilities of the Study Commission. Therefore, it is a legitimate question to ask. Ken stated that one wonders in our community if the term Chief Executive is going to be all right

because that term has been used over a long period of time and people are familiar with that term. Ken doubts that very few people will know what a City Manager is.

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Northey commented about the time that he and Ken spoke a couple of months ago and Northey relayed to him his apprehension about a survey and that point in time he was apprehensive about one too. Ken replied that he was and he remains so. Northey felt if people are not familiar with the questions and their meaning, there could be a backlash. Ken agreed. Ken stated that the downside is that the Study Commission is stuck with the answers and will not get the height of results. So when the public comes in and says whatever their answer is going to be, it might be an answer that will surprise the Study Commission. They are not obliged to act as a result of that answer, to make some recommendation that is responsive to a majority of opinion on some subject. The Study Commission will not be able to conceal the information as it is public information and the media will be going after it. Ken stated that as a public body, even if you don't like the answers, the Study Commission is stuck with it and surveys have a rather unfavorable way of surprising you at times. That is one of Ken's reservations in regard to a survey. The question itself, Butte is a remarkable sophisticated political community. They are likely to know what a City County Manager means as an alternative to an elected Chief Executive. The key words, elect and appoint, are in the question so maybe the general public will understand the terminology. Ken stressed once again that the Study Commission is going to be stuck with the answer, whatever it is, even if the Study Commission knows better and decides to move in a different direction or not to move at all, the Study Commission is going to be stuck with it or held accountable for it. Ken stated that the Study Commission is dealing with a survey of 200-500 people that may respond. If it is decided that the Study Commission does not want to proceed with that then why ask if they are not going to do that. Northey replied that it went back to a statement that Ken made which was don't ask questions that you know answers to or you don't want answers to. Ken stated that there are not very many people in our community who know more about the BSB government than the Study Commission does. Ken stated that he always preface his remarks by asking are you sure this information is needed because the Study Commission will be stuck with the answer. Ken replied that even though Butte is probably the most sophisticated community in the state, he doubts that most people know the ins and outs of BSB government. Ken replied that question #1 is such a fundamental question. If the Study Commission is seriously thinking about putting this amendment to their plan of government on the ballot and they feel strongly that there needs to be the benefit of citizen input, because the Study Commission does not know which way to go, then question #1 is a legitimate question. If the Study Commission assumes that the community of Butte is informed enough to answer the question and secondly if the Study Commission is seriously considering making this recommendation to the voters and they want some citizen input on it then Ken feels the question is alright.

Bob Worley commented that they are going to have a public hearing on June 16, 2005 and he is not sure how many people will be there. Bob explained it will be well advertised and will try to get ads on television, radio and newspaper. Bob asked Ken if there was a possibility that they will get some strong feedback from that. Ken replied yes. Ken commented that there will probably be a fair number of people that will attend the public hearing, many of whom will be interested in what their going to learn and there will be folks there that the Study Commission will listen to that are going to say under no circumstances consolidate that Superintendent, under no circumstances go to an appointed manager and so on. Ken replied that there will be a lot of people in Butte who don't come to the public hearing and have a different view and will not speak up about their view point and they will defeat you come election time when he/she places their vote. Ken stated that he always remains a little guarded. Bob Worley commented that every step they go forward is a new experience. Ken asked when the public hearing was and stated that he would not mind driving over to Butte to attend the hearing to be there as a resource person. Ken asked that they have him attend only if they feel they need him as a resource person to answer citizen's questions.

Meg commented that some of the Study Commission members went to the Anaconda public hearing meeting and they had 10 citizens show up. Ken stated that it is still early and to wait until the budget business unravels over there and the Study Commission in Anaconda gets serious about what it is their going to recommend. Meg stated that the Butte paper covers their news extensively and they have confusion over a Chief Executive and a City Manager. Meg assumed that people are a little bit more knowledgeable about the two forms of government with what they have read in the paper. Ken agreed.

Northey mentioned that a comment made by the people in Anaconda was that Butte had the benefit of departments and staffing that Anaconda did not have. Ken commented that was an interesting observation and that there could be some truth in that. Ken explained when Anaconda/Deer Lodge went to a Manager and adopted the charter in 1976, they went to a manager form for all the wrong reasons. They abandoned that manager form and went with the Elected Executive. Ken stated what happened is they did not have adequate staffing and they still don't. Ken stated that Anaconda does not have enough experienced Department Heads. Northey commented that Vuckovich made a comment and used the analogy of Butte that they do not have the luxury that Butte has. Ken replied that he was not surprised that Gene Vuckovich would say that because he would know. It may have been something he did not notice in his last move in 1992-1993 and may have not been paying close enough attention. A series of Elected Executives, who may or may not know how to balance their own checkbook without a knowledgeable senior staff, it is not surprising to see what has happened in Anaconda. Ken stated that the BSB consolidated government does have a group of senior staff who are very experienced and knowledgeable. Northey replied that due to that, it should push that

question to be decided if it should or should not be included on the survey. Ken asked that Northey rephrase the question because he wants to fully understand the question. Northey replied because Butte does have experienced staff and one of the benefits of an Appointed Manager, is someone bringing to the table experience that the county may not have. Butte does not have that need necessarily. Ken replied that it is a sophisticated comment and he cannot confirm or disconfirm it but loves Northey's argument and that it is exactly the right kind of analysis. Ken stated that he is not saying he agrees with it, Northey is just thinking about it the right way.

Ken replied that a Manager costs more money. Ken asked if the Study Commission knew what the Chief Executive made and everyone replied yes. Ken guessed that the Chief Executive made at least \$75,000 and then asked what the figure was. Northey replied \$78,000. Ken replied that Butte would not get a manager for under \$100,000. Ken further stated that someone from Butte would take the position for \$90,000. Ken stated his point is that the Study Commission's analysis is sound. They are looking at the cost side and what it is they want to buy into the government, in the form of a manager. Those are the right kinds of questions. Northey replied that he is looking deeper into it and asked if it was appropriate to have that type of question on the survey and respond yes or no. Ken responded that yes it is appropriate and that it is within the scope of their responsibilities if they are seriously considering this option. Ken thinks there would be a benefit from the input of citizens in helping a judgment be formulated on whether to recommend it or not. Ken stated do not put that question on the survey if it can't be worked out amongst themselves. They need to have enough support from the Study Commission as a whole for the idea of change and if they do not have that support from everyone, then why are they asking? Bob Worley confirmed and asked what Ken was suggesting is to support amongst the Study Commission itself. Ken replied yes, and that sooner or later those recommendations have to be adopted. Ken again stated that it is an appropriate question to ask if the Study Commission is considering on moving ahead with such a recommendation. Meg asked that should apply that way for every question. Ken replied good question and that it does. Ken went on to scan the survey and gave an example on the question that asked about the reduction of Council of Commissioners and Meg replied that it has been under discussion. Ken replied that question would be left alone. Ken suggested that they get rid of the Community Enrichment Coordinator since he did not know what an Enrichment Coordinator is and wondered if anybody did; that type of question should be answered by the Council of Commissioners.

Meg replied that there are a couple of questions on the revised survey that he needs to look over. Ken went through each question starting with number 2. Ken stated that number 2 is a question that would only make sense in a consolidated government since no one wants to appoint a Sheriff. There are also 129 incorporated municipalities cities and towns and none of them have an appointed Sheriff other than Anaconda. Bob Worley replied that there was just a situation in Billings and asked if that was an

appointed Sheriff over there. Ken replied no that it was the Chief of Police that was appointed. Meg commented that one reason they put that question on was because of the question following it, the Director of Fire Services is presently appointed and they have the impression that the department is running smoothly and that is why they went back to consider that for the Sheriff. Ken asked if anyone knew what the qualifications were for an appointed Sheriff. Meg replied no. Ken replied that he rests his case. Ken stated with that question, they will need to decide if they are mostly a city or a county. Meg asked because Butte is a consolidated government, do they have to use the term Sheriff and could they use the term Chief of Police? Ken replied of course because BSB has a charter and in that it states that the term could be the Director of Public Safety if they wanted. Bob Worley commented that he liked that term better and that it fits the flow of Director of Fire Services. Ken agreed. Ken commented that the interesting dilemma that question poses for them is do they have primarily a municipal police with some responsibilities out in the county or does Butte have a traditional county sheriff's department. Everyone agreed that it is more municipal. However, they do cover the rest of the county. Ken replied that there are half a dozen or more of consolidated police sheriff departments and some of them have worked pretty well and others have not. So there is a Sheriff's Department, which is assumed responsibility for policing and municipalities and Butte-Silver Bow's would be almost the reverse of that.

Bob Worley moved on to the third question and stated that it pretty much answers question 2. He does not know if they want to give one of those people as an appointed person and then have them come back and say they should elect the Director of Fire Services and does not want that to happen, as they are happy with the Director of Fire Services. Bob Worley asked if it would be smart to just reference that in question 2 and take it off the survey if they were to do the survey. Ken replied if they don't intend to change it absolutely.

Bob moved onto question 4 and thought it may be more of an internal question as to the number of Council of Commissioners. Bob explained why Butte had 12 Council of Commissioners, because at one time Butte had six legislative districts so they were elected, two from each district. Butte currently down to four legislative districts and asked if that was reason enough to cut the number of Council of Commissioners. Ken replied that he did not think that was the reason and that it happened to be in the number. Bob interjected that it was convenience and Ken agreed but that it also meant there were no elected positions being abandoned at the time they consolidated the two governments. Ken stated that took however many city councilman there were. They added it and threw in the Chief the Executive and that is how it came out, so Ken believes. Ken commented that he really could not answer Bob's question. Ken stated that the key to understanding it is that it is a representative body. The question is then, what is the right number to assure that the neighborhoods feel represented and if there is any community in Montana that is more conscience of its neighborhoods; it has to be Butte. That is the issue that needs to be addressed theoretically. Is the number of representatives sufficient to

assure affective of, by and for the neighborhoods. Ristene mentioned that it was also stated that Butte had less full-time commissioners and asked if the counties that have full-time commissioners get more done; does it work better? Ken replied that was a deceptive question. Ken stated that first of all the judicial government, if looked at carefully, what will be found more often than not is all three of those County Commissioners are all coming out of the county seat. Why? Because those commission districts, the county governments are represented by the commissioner and has to reside in the district from which he is elected; he is elected by everyone at large. Those districts have to be balanced by the population that means that everyone of them has to come into the city to get enough population to balance each other. Ken stated that was a good question and commented could we expect to get, not just more work, but more knowledgeable representation? Furthermore could we expect more effective and efficient decision making out of the governing body, the Council of Commissioners, with fewer full-time commissioners. Ken stated that was a really important question and he is going to study it and get back with Ristene.

Bob Worley asked if they should decide to cut their number of Council of Commissioners? Their goal of a full-time commissioner staff, should they be elected from a district itself that is designated by lines? Should these people be elected at large? Ken replied that they should not be elected in Butte. People in Butte are very conscientious that their representation is of, by and for the neighborhood. That means we get to vote for our own guys and nobody else gets to vote for them. Ken would be very surprised if they put that question on the ballot that it would pass.

Ristene asked what if the city was divided into five districts, and they have five full-time commissioners representing the city, would this be a better idea? Ken replied that could be done if it is decided to go to a manager form however thinks it is not a good idea because it is too big and too complex. Ken stated if you went to five or four wards with two representative serving four year overlapping terms that might make some sense. Ken stated that he does not have a good enough feel for the demographics of Butte and does not know how many definable communities there are. Ristene explained that our twelve districts everybody has close to 3,000 people in their district. Ristene found that she did not have the time that she wanted to commit to the commission that she would have liked. Ken stated that was a good point and will narrow the field of candidates. Ken asked if the present county commissioner is elected by electoral district. The Study Commission members present replied yes. Ken continued to ask if they are required to reside and only the voters in that district can vote for that candidate? Study Commission members replied yes. Ken commented that it is one thing to worry about if there are too many electoral districts but that is the starting point of that question, not the number of commissioners but the number of electoral districts. Ken stated that is the answer to their question. Ristene stated that her opinion is that they do not have too many because every commissioner is a part-time commissioner and to give them a bigger district and still be a

part-time commissioner she feels less would get done. Ken stated that his starting point concern is that if they are going to have fewer, they are going to have one or more of the districts go away and how will the neighborhood feel? They will feel like they are less effectively represented when they don't have...Ristene interjected not if they are represented full-time. Ken suggested thinking of it in terms of neighborhoods and if perfect lines could be drawn around those neighborhoods and give those folks that live within that neighborhood a representative or two. That would be ideal. Ken stated if a community, like Bozeman, that is large in their municipal government because everybody looks the same there, there is not a lot of diversity. Meg asked if there should be a period of time that a commissioner should reside in their district as apposed to living somewhere else. Ken stated that they have to reside in their district. Bob Worley commented that is pretty well spelled out in the charter.

Bob moved onto question 6. Bob stated that his own personal opinion is that people are very comfortable with nonpartisan elections in BSB. Ken agreed and stated if that was the case why are they asking. Bob commented that Paul Babb suggested having a centralized complaint department. Ken stated that this is an internal matter of the government. Bob explained where the Study Commission is on the Superfund issue. Bob stated that it looks like Butte is headed towards, and money is kind of key issue, \$47,000,000 dollars and Jon Sesso is presenting at the meeting this Thursday, May 26, 2005. Ken asked why and what is puzzling him is, how can that be within the scope of recommendations of the Study Commission? Bob Worley stated that the Study Commission wants to create, within the charter, an antonymous board to manage Superfund monies. Bob explained that they don't want a lot of government people in there and would rather have it filled by responsible, qualified citizens. Ken commented that there is no sense in him going there because he does not understand it but might ask how would one pick them, by electing them? Bob stated that he did not think they would be elected. Ken replied all right then they are going to be appointed and by whom? Ken stated that he might imagine that they might have a supplementary report there that might eventually lead to such a body and there is nothing adherently wrong with that except the \$47,000,000 and there is no such thing as an antonymous body when there is \$47,000,000 sitting on the table. It will be an accountable body if their either appointed by the Chief Executive or confirmed by the Council of Commissioners. No government would tolerate such an arrangement. This is due to the fact if an entirely elected board gave them the money, then you have two governments.

Ristene commented that she thinks all nine Study Commission members should each take the survey themselves and then have the secretary come back with the results and then go from there. Ken replied that was an interesting idea. Ken stated that soon enough there are going to be answers and they are going to need to be analyzed. Ken commented that what is being discussed in Item 11 is called a Public Safety mil levy. Ken stated that cannot be put on the ballot and only the Council of Commissioners can put it on there.



Ken stated that he liked Question 13 and that is called a trolling question for anglers among them. Ken stated that the Study Commission did not need to know if people were registered to vote and that all people would say yes. Ken stated that the age group numbers were not lined up according to census data. Ken stated that he had a better way of asking that question.

Ken looked over the rest of the survey and commented that nobody is going to know about the Budget Office. Ken stopped at Parks and Recreation and asked if they are referring to the department or programs and to keep that in mind. Ken stated that there was a problem with the last set of questions in reference to programs i.e. zoning and golf course. Ken stated that they had quite a mixed bag and would show them a different way of asking that question.

Ken stated that he feels he has been to much of a hip shooter because there are some things that he is not sure of. Ken stated that he is going to respond in writing and submit it to the Chair and will include alternative language. Ken stated that if he got much more involved he would need to charge the Study Commission something which he does not see coming yet. Ken stated that the Study Commission is still a long way from getting a surveying instrument that will work depending on how it is going to be administered. Bob Worley got away from the subject and commented that on the bottom of survey they have create a land records department since this was done by the last Study Commission and was never carried through to where it become a separate department.